



6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2016-0241; FRL-9948-08-Region 9]

#### Approval of California Air Plan Revisions, El Dorado County Air Quality Management

#### District

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking direct final action to approve a revision to the El Dorado County Air Quality Management District (EDCAQMD) portion of the California State Implementation Plan (SIP). We are approving a local emergency episode plan that describes actions that EDCAQMD must take in the event of dangerously high ambient ozone concentrations levels under the Clean Air Act (CAA or the Act).

**DATES:** This rule is effective on [Insert date 60 days after the date of publication in the Federal Register] without further notice, unless the EPA receives adverse comments by [Insert date 30 days after the date of publication in the Federal Register]. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R09-OAR--2016-0241 at <http://www.regulations.gov>, or via email to [Steckel.Andrew@epa.gov](mailto:Steckel.Andrew@epa.gov). For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of

submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “**FOR FURTHER INFORMATION CONTACT**” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Andrew Steckel, EPA Region IX, (415) 947 4115, *Steckel.Andrew@epa.gov*.

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us,” and “our” refer to the EPA.

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## **I. The State's Submittal**

A. *What plan did the State submit?*

Table 1 lists the plan addressed by this action with the date that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1 - SUBMITTED PLAN

Local Agency	Plan Title	Adopted	Submitted
EDCAQMD	Ozone Emergency Episode Plan	01/12/16	04/06/16

On April 21, 2016, the EPA determined that EDCAQMD's Ozone Emergency Episode Plan submittal met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. *Are there other versions of this plan?*

There are no previous versions of this plan adopted by EDCAQMD or approved by EPA in the SIP.

C. *What is the purpose of the submitted plan?*

The CAA requires the EPA to establish National Ambient Air Quality Standards (NAAQS) for Ozone and five other pollutants that are harmful to public health and the

environment. Each state is required to submit to the EPA, within three years after the promulgation of a primary or secondary NAAQS, or any revision thereof, an infrastructure SIP revision that provides for the implementation, maintenance, and enforcement of such NAAQS. CAA section 110(a)(2) describes the contents required of such a plan that constitute the “infrastructure” of a state's air quality management program. The EDCAQMD Ozone Emergency Episode Plan is intended to fulfill the CAA § 110(a)(2)(G) infrastructure SIP requirement.

## **II. The EPA’s Evaluation and Action**

### *A. How is the EPA evaluating the plan?*

SIPs must be enforceable (see CAA section 110(a)(2)) and SIP revisions are restricted in how they can relax approved SIPs. This plan must also meet the infrastructure SIP requirements of CAA section 110(a)(2)(G) and EPA’s implementing regulations found in 40 CFR part 51, subpart H (51.150 through 51.153).

Guidance that we used to evaluate section 110(a)(2) CAA requirements includes: “Guidance Document for Infrastructure State Implementation Plan Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2)”, EPA (September 2013).

### *B. Does the plan meet the evaluation criteria?*

We believe this plan is consistent with the relevant policy and guidance regarding enforceability, SIP relaxations and infrastructure SIPs. The EPA’s technical support document (TSD) has more information about this plan and our evaluation.

### *C. Public comment and final action*

As authorized in section 110(k)(3) of the Act, the EPA is fully approving the submitted

plan because we believe it fulfills all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted plan. If we receive adverse comments by [**Insert date 30 days after date of publication in the Federal Register**], we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on [**Insert date 60 days after date of publication in the Federal Register**]. This will incorporate the plan into the federally enforceable SIP.

Please note that if the EPA receives adverse comment on an amendment, paragraph, or section of this plan and if that provision may be severed from the remainder of the plan, the EPA may adopt as final those provisions of the plan that are not the subject of an adverse comment.

### **III. Incorporation by Reference**

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the EDCAQMD plan described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents available electronically through [www.regulations.gov](http://www.regulations.gov) and in hard copy at U.S. Environmental Protection Agency Region IX (AIR4), 75 Hawthorne Street, San Francisco, CA, 94105-3901.]

### **IV. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60**

**days after date of publication in the Federal Register**]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that the EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: June 13, 2016.

Alexis Strauss,  
Acting Regional Administrator,  
Region IX.



Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for Part 52 continues to read as follows:

**AUTHORITY:** 42 U.S.C. 7401 *et seq.*

**Subpart F—California**

2. Section 52.220 is amended by adding paragraph (c)(473) to read as follows:

**§ 52.220 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(473) A new regulation for the following AQMD was submitted on April 6, 2016 by the Governor's designee.

(i) Incorporation by reference.

(A) El Dorado County Air Quality Management District.

(L) "Ozone Emergency Episode Plan," adopted January 12, 2016.

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